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HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Miscellaneous Bail Application No. 5860/2026
CNR: RJHC010442842026 | URN: CRLMB / 13031U / 2026

Karna Ram S/o Lichhman Ram, Aged About 19 Years, R/o Gaurera,shri Balaji, Nagaur, Rajasthan Presently Accused Confined In District Jail, Nagaur

----Petitioner

Versus

State Of Rajasthan, Through Special Public Prosecutor

----Respondent

For Petitioner(s)	:	Mr. Tapendra Sankhla
For Respondent(s)	:	Mr. Deepak Choudhary, AAG with Mr. Sameer Pareek, PP Mr. Om Prakash Gora, CI, Police Line, Nagaur

HON'BLE MR. JUSTICE SANJEET PUROHIT
Order

Reportable

1. Date of conclusion of arguments : 05/11/2026
2. Date of which order was reserved : 05/11/2026
3. Whether the full order or only the operative part is pronounced : Full Order
4. Date of pronouncement : 18/11/2026

1. The jurisdiction of this Court has been invoked by way of filing an application under Section 483 B.N.S.S. at the instance of accused-applicant. The requisite details of the matter are tabulated herein below:

S.No.	Particulars of the Case	
1.	FIR Number	22/2026
2.	Concerned Police Station	Shri Balaji
3.	District	Nagaur
4.	Offences alleged	137(2), 64(2)(m), 127(4) of BNS, 2023 & 3/4 POCSO Act
5.	Date of passing of impugned order	28.04.2026

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2. Learned counsel for the accused-applicant submits that the applicant has been falsely implicated in this case and the investigation against him is complete. He further submits that there are no chance of applicant-accused fleeing from the jurisdiction of this Hon'ble Court.

2.1 Learned counsel for applicant contended that the FIR in question has been lodged involving false and concocted allegation. FIR was lodged by the father of the victim upon finding his minor daughter missing. As per the FIR, on 15.02.2026, at around 3:00 A.M., the applicant-Karanaram, allegedly lured away and abducted his 14-year-old daughter, victim-'J'. It was further alleged therein that one Dinesh, son of Kishorram, had dropped the applicant and the victim at Jodhpur on his motorcycle and informed the complainant that the applicant had paid him Rs. 500/- for the same. The complainant also alleged that the victim had taken a keypad mobile phone belonging to the family and that the applicant had broken the same after removing its SIM card.

2.2 Learned counsel submits that, contrary to the allegations in the FIR, the applicant and the victim 'J' were in a consensual relationship and the victim 'J' had voluntarily accompanied the applicant and remained with him for more than a month at Nippani, Karnataka, without raising any alarm or seeking assistance. It is further submitted that the applicant and the victim were subsequently traced by the police and brought to Nagaur. Upon their arrival, the victim was counselled and a conversation was arranged between her and her parents. She was also produced before the Child Welfare Committee, which directed

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that she be handed over to her parents. It is contended that, pursuant thereto, the victim was sent with her parents, whereas the applicant was taken into custody.

2.3 Learned counsel has also raised serious objections regarding the legality of the applicant's arrest and subsequent extension of remand. In this regard, an additional affidavit has been filed on behalf of the applicant, alleging that he was arrested on 15.03.2026 at Nippani, Karnataka, and was thereafter brought to Rajasthan without being produced before any Magistrate during transit. It is submitted that the applicant remained in continuous custody from the date of his apprehension and was not released at any point thereafter. However, his formal arrest was shown at 10:45 P.M. on 19.03.2026, and the arrest-related documents also reflect discrepancies regarding the actual date of arrest. The applicant was eventually produced before the learned Additional Judicial Magistrate No. 1 on 20.03.2026 at around 2:10 P.M. and remanded to police custody. Learned counsel contends that the period during which the applicant remained in custody without being produced before a Magistrate amounts to unauthorised detention and by itself, warrants his release on bail.

2.4 It is further contended that even after formally showing the applicant's arrest, the mandatory procedure prescribed under the Section 187 BNSS for authorisation of remand was not followed. Learned counsel submits that the remand orders indicate that the applicant was not physically produced before the learned authority, either personally or through video conferencing, when

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his remand was extended, thereby rendering the subsequent remand proceedings legally unsustainable.

2.5 Lastly, learned counsel submits that the grounds of arrest were never communicated to the applicant at the time of his arrest, in violation of Article 22(1) of the Constitution of India and Section 50 of the Code of Criminal Procedure, 1973, corresponding to Section 47 of the BNSS. Placing reliance upon the judgment of the Hon'ble Supreme Court in ***Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799***, learned counsel contends that non-communication of the grounds of arrest vitiates the arrest and entitles the applicant to be released on bail.

2.6 Learned counsel for the applicant further contends that there are material inconsistencies between the statements of the victim recorded under Sections 180 and 183 of the BNSS and her subsequent testimony before the Court. It is submitted that, in her earlier statements, the victim specifically named one Dinesh as the person who had accompanied the applicant on a motorcycle on 15.02.2026 and had allegedly dropped the applicant and the victim at Jodhpur. However, in her subsequent testimony before the Court, she neither referred to Dinesh nor attributed any role to him and instead stated that the applicant alone had taken her to Jodhpur. It is further pointed out that, while the victim stated in her statement under Section 183 of the BNSS that the applicant had taken her to Goa, she subsequently deposed before the Court that she had been taken to Nippani in Karnataka.

Learned counsel submits that these material variations, coupled with the fact that the victim allegedly remained with the

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applicant for about a month without raising any alarm or seeking assistance, cast doubt on the prosecution version.

2.7 Learned counsel further submits that the victim's allegations of forcible sexual assault are not corroborated by the medical examination, which does not disclose any visible bodily injury. The final medical opinion has also been reserved pending receipt of the FSL report. It is, therefore, contended that the material collected during investigation does not sufficiently support the allegations levelled against the applicant.

2.8 Lastly, learned counsel submits that the applicant is a young boy aged about 19 years, has no criminal antecedents and that his continued incarceration may adversely affect his mental and physical well-being. On these grounds, learned counsel prays that the applicant be enlarged on bail.

3. Per contra, learned Additional Advocate General Mr. Deepak Choudhary, assisted by learned Public Prosecutor as well as investigating officer, vehemently opposed the bail application. It is contended that, having regard to the nature and gravity of the alleged offences and the fact that the victim was aged 14 years and 5 months at the time of the incident, the applicant does not deserve the concession of bail.

4. A counter-affidavit has also been filed on behalf of the Investigating Officer, denying the allegation of the applicant having been kept in illegal detention from 15.03.2026 to 19.03.2026. This Court, vide order dated 02.11.2026, directed the Investigating Officer to place on record the CCTV footage of the police station for the date on which the applicant's arrest was

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formally shown, as well as the call detail records and tower location of the applicant's mobile phone. In compliance with the aforesaid directions, the Investigating Officer, in the counter-affidavit, has stated that the alleged incident pertains to March 2026 and that the digital video recorder (DVR) of the CCTV cameras installed at the concerned police station does not retain footage beyond 180 days. Consequently, the CCTV footage dated 19.03.2026 is no longer available.

4.1 With regard to the call detail records and tower location data, it is stated that, as per the information furnished by the service provider, Jio, to the Superintendent of Police, Nagaur, the applicant's mobile phone was located at Nippani on 13.03.2026, thereafter at certain locations in Maharashtra, and was subsequently found to be switched-off. Accordingly, the call detail records and tower location data were available only for the period from 10.03.2026 to 15.03.2026, and no further data could be obtained thereafter. Thus, apart from the mere allegation of illegal detention from 15.03.2026 to 19.03.2026, no material has been placed on record by way of the additional affidavit to substantiate such detention. Moreover, the said allegation has been specifically denied in the counter-affidavit. Hence, there is no prima facie material on record to suggest that the applicant was kept in illegal detention during the said period from 15.03.2026 to 19.03.2026.

5. Heard learned counsel for the parties and perused the material available on record.

6. Although the applicant has alleged that he was taken into custody on 15.03.2026, whereas his formal arrest was recorded

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on 19.03.2026, no material has been placed on record to substantiate the allegation of his illegal detention during the intervening period. The charge-sheet indicates that, upon the applicant and the prosecutrix being brought back to the town, their respective parents were called and, having regard to their age, both were handed over to their family members. Neither the additional affidavit nor the counter-affidavit brings forth any material to suggest that the applicant was kept in police custody between 15.03.2026 and 19.03.2026. In the absence of any such material, the judgment relied upon by learned counsel for the applicant, namely ***Vihaan Kumar*** **(supra)**, does not advance his case.

6.1 A perusal of the order-sheets reveals that the applicant was arrested on 19.03.2026 at 10:45 P.M. and was physically produced before the learned ACJM No. 1, Nagaur, at 2:10 P.M. on 20.03.2026. Vide order dated 20.03.2026 (Annexure-3), the learned ACJM No. 1, Nagaur, allowed the application seeking police custody of the applicant for the period from 20.03.2026 to 27.03.2026. The remand application records that the investigation was also required to be undertaken at Nipani, Karnataka, where the alleged offence of sexual penetration had taken place. Pursuant to the information recorded under Section 23 of the BSA, the place of occurrence was identified in Karnataka, necessitating the police to undertake a journey of approximately 2,000 kilometres to and fro from Nagaur.

6.2 Thereafter, on 26.03.2026, the Investigating Officer moved another remand application seeking 15 days' judicial custody of

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the applicant. Since the learned Special Judge, POCSO Cases, was on leave, the application was presented before the learned Judicial Magistrate, Khimsar, who, upon the applicant being produced before the Court, remanded him to judicial custody until 27.03.2026, taking note of the nature of the alleged offence and the contents of the case diary.

Subsequently, on 28.03.2026 the remand papers were forwarded to the learned Special Judge, POCSO Cases, through the District Jail, Nagaur. Since learned judge was on leave, the matter was placed before link Court. The applicant was not physically produced before the link Court on that date. However, the judicial custody warrant and remand papers received from the District Jail, Nagaur, were placed before the Court, whereupon the link Court extended his judicial custody until 10.04.2026, observing that the charge-sheet had not yet been filed and granting further time to the prosecution for its submission.

6.3 It is the case of the applicant that the extension of his judicial custody vide order dated 28.03.2026, without his production before the link Court either physically or through audio-video electronic means, was contrary to the mandate of the proviso to Section 187(4) of the BNSS. It is submitted that the said provision mandates the production of an accused before the Magistrate, either physically or through audio-video electronic means, before authorising further detention. Reliance is also placed upon Section 530 of the BNSS, which permits proceedings, including remand proceedings, to be conducted through electronic communication or audio-video electronic means.

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6.4 This Court has considered the aforesaid submissions and perused the relevant remand orders. The record reveals that the applicant was physically produced before the remand Magistrate on 23.03.2026 and again on 26.03.2026, when he was remanded to judicial custody. The controversy is confined to the subsequent extension of judicial custody by the link Court on 28.03.2026 in the absence of the applicant.

6.5 A perusal of the order dated 28.03.2026 reveals that the link Court, after examining the remand papers, specifically recorded that the petitioner had already been remanded to judicial custody on 26.03.2026 and extended the period of such custody until 10.04.2026. Thus, the order dated 28.03.2026 did not authorise detention afresh but merely extended the judicial custody already authorised by the competent Court.

6.6 For convenience, Section 187(4) BNSS is reproduced herein below:

> *"No Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police,* ***but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the audio-video electronic means."***
>
> (emphasis supplied)

6.7 A plain reading of Section 187(4) BNSS indicates that the provision makes a clear distinction between the procedure prescribed for authorising police custody and that governing the extension of detention in judicial custody. While the legislature has employed the expression *"shall"* in respect of the personal production of the accused before the Magistrate for authorising

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police custody, it has used the expression *"may"* in relation to the production of the accused, either in person or through audio-video electronic means, for the purpose of authorising further detention in judicial custody. This distinction reflects the legislative intent to make physical production of the accused mandatory before an order of police remand is passed, while providing procedural flexibility in cases of judicial remand.

The requirement of personal production for police custody serves as an important safeguard against arbitrary exercise of power and custodial coercion, ensuring that the Magistrate has an opportunity to interact with the accused and independently assess the necessity and legality of the proposed police custody.

6.8 However, the provision does not, by itself, confer any entitlement to bail upon non-production of the accused at the time of extension of judicial custody. The legality of an order extending judicial custody must be examined in the light of the statutory scheme and the circumstances in which such an order was passed. Mere non-production, whether physically or through audio-video electronic means, would not, in itself, render the detention illegal so as to entitle the accused to release on bail. Consequently, in the present case, the applicant's non-production before the link Court, either physically or through audio-video electronic means, does not, by itself, furnish a ground for his release on bail.

6.9 The aforesaid view also finds support in the decision of the Karnataka High Court in ***D. Gundappa v. State of Karnataka, 2017 SCC OnLine Kar 1149***, decided on 05.06.2017. The relevant observations are reproduced below:

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> *"17. It is held in the above case by the Division Bench that the decision in Raj Narain's case holds good even under the new Code of 1973 that wherever it is not possible to produce the accused before the court bodily, the court cannot insist upon the production of the accused and cannot refuse to pass an order of remand.* ***Therefore, it follows that mere non-production of the accused before extending the remand does not render the custody of the accused illegal.*** *In the instant case, the custody of the petitioner/accused is seen to have been continued without there being specific order of remand by the learned Magistrate; but that by itself, in the light of the proposition referred above, does not render the custody of the petitioner illegal even though the continuation of the custody without authorization may give rise to a cause of action to the petitioner for the remedy of habeas corpus or for damages depending upon the circumstances of the case. In the absence of any provision either in Section 167 or section 209 of Cr.P.C., the petitioner cannot seek his release on bail on the ground that the custody was extended without an order of remand or without his production before the Magistrate. The very same question fell for consideration before another Division Bench of this High Court in the case of SAJJAD v. STATE OF KARNATAKA by IG Prisons, ILR 2005 KAR 3313 and relying on the ratio laid down in Raj Narain's case,* ***it was held that an order of remand in the absence of the accused is not an illegality and that merely on the ground that the remand order was passed in the absence of an accused, the accused cannot be released on bail.*** *We are in agreement with this proposition and therefore, the contrary view taken by the Division Bench of the Andhra Pradesh High Court in the case relied on by the learned counsel for the petitioner in A. Narayana Reddy v. State of A.P., 1991 (3) Crimes 873 does not commend to us."*
>
> (emphasis supplied)

6.10 The aforesaid legal position has also been considered by Hon'ble Allahabad High Court in in ***Ashish Shakya (Dr) v. CBI, 2026 SCC OnLine All 7644***, decided on 22.05.2026. Interpreting Section 187(4) of the BNSS, 2023, the Hon'ble Court observed that while negative and mandatory language governs police custody, the provision for extending judicial custody is enabling, using the word *"may"*. Relying upon the Constitution Bench ruling

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in ***Raj Narain v. Superintendent, Central Jail, New Delhi; AIR 1971 SC 178***, the Court held that mere non-production, either physically or via audio-video means does not *per se* vitiate an order extending judicial custody when rendered impossible by circumstances beyond control, nor does it entitle the accused to automatic release or default bail. Relevant paragraphs are reproduced herein below:

> *"16. It is to be noted that Section 187(4) of BNSS, 2023 further provides that no Magistrate shall authorise detention of accused in custody of police under this section unless accused is produced before him in person for first time and subsequently every time till accused remains in the custody of police, but the Magistrate may extend further detention in judicial custody on production of accused either in person or through audio-video electronic means. A perusal of said provision would show that insofar as police custody is concerned, provision employs negative language creating a protective bar against arbitrary arrest or detention by police.* ***However, insofar as judicial custody of accused is concerned, the language under Section 187(4) of BNSS, 2023 is in nature of empowering Magistrate to extend judicial custody of accused on production in person or through the audio-video electronic means****.*
>
> *xxxx*
>
> *40.* ***It is further to be noted that law does not contemplate default bail or release of accused in the event of non-production of accused before the court concerned (as is the case under Section 187(3) of BNSS, 2023) at the time of extension of judicial custody.*** *The question of validity of remand (to judicial custody) of accused by court concerned without production of accused is to be examined in facts and circumstances of each case in the light of impossibility."*
>
> *(emphasis supplied)*

7. Although the applicant has alleged that the grounds of arrest were not communicated to him at the time of his arrest, the arrest memo placed on record reflects that the particulars of the FIR, along with the offences alleged therein, were duly recorded and served upon the applicant. The applicant's contention is that mere

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disclosure of these particulars does not satisfy the mandate of Section 47 BNSS; rather, the basic facts constituting the alleged offence must also be set out. In support of this submission, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Vihaan* (supra)**. In considered opinion of this Court, the objection raised by the applicant cannot be considered in isolation or as an automatic ground for grant of bail. In ***State of Rajasthan v. Jhabra Ram, 2026 SCC OnLine SC 2270***, the Hon'ble Supreme Court, while recognising the importance of communicating the grounds of arrest as a constitutional and statutory safeguard, has observed as under:

> *"16. We have no hesitation in observing that the communication of grounds of arrest is a crucial constitutional and statutory safeguard under Article 22(1) of the Constitution and Section 47 of the BNSS, designed to ensure that an arrested person is promptly apprised of the reasons for his apprehension so as to enable him to consult legal counsel, oppose remand, and seek legal remedies effectively. There can be no dispute as to the principles reflected in the judgments of this Court in Pankaj Bansal (supra), Prabir Purkayastha (supra) and Mihir Rajesh Shah (supra), but the facts emerging from the material on record in the present case unequivocally establish that there was substantial and effective compliance with this mandate of law.*
>
> *17. In an application seeking regular bail under Section 483 of the BNSS, the Court is mandated to consider well-settled statutory and judicial parameters, including: (i) the nature and gravity of the accusation; (ii) the severity of the punishment in the event of conviction; (iii) the danger of the accused absconding or tampering with evidence; and (iv) the overarching impact on public interest and national security.* ***A hyper-technical objection regarding the form or mode of communicating grounds of arrest cannot be treated as a self-executing, blanket key to unlock regular bail, bypassing the core parameters governing bail jurisprudence.****"*
>
> *(emphasis supplied)*

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7.1 In view of the aforesaid, the arrest memo, which records the particulars of the FIR and the offences alleged therein, cannot be said to be wholly devoid of information concerning the basis of the applicant's arrest. Further, the applicant has not demonstrated any prejudice caused to him on account of the alleged deficiency in communicating the elaborate grounds of arrest. Having regard to the observations of the Hon'ble Supreme Court in ***Jhabra Ram* (supra)**, this Court is of the opinion that the objection, in the facts of the present case, does not independently warrant grant of bail, particularly when the applicant is facing serious allegations under the POCSO Act, enacted for the protection of children from sexual offences.

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8. This Court has also considered the merits of the case. Learned counsel for the applicant contends that the relationship between the applicant and the victim was consensual; that the victim accompanied him of her own free will; and that she neither raised any alarm nor attempted to escape during her stay at Neppani. This Court finds no merit in these submissions. Admittedly, the victim was only 14 years old at the relevant time and, therefore, her consent has no legal recognition. Further, her failure to raise an alarm or attempt to escape cannot, by itself, be construed as indicative of consent, particularly when she has stated in her statements recorded under Sections 180 and 183 of the BNSS that she was subjected to threats during her stay with the applicant.

8.1 As regards the inconsistencies and improvements alleged in the victim's statements, this Court refrains from undertaking a

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detailed assessment of her testimony, as the same falls within the domain of the learned Trial Court. However, a perusal of her statements recorded under Sections 180 and 183 of the BNSS, as well as her statement before the Court, reveals that she has consistently levelled allegations of sexual assault against the applicant. The discrepancies pointed out by learned counsel do not, at this stage, persuade this Court to discard the prosecution case. The evidentiary value of these statements and the alleged inconsistencies shall be examined during trial, without this Court expressing any concluded opinion on the merits of the allegations.

9. In view of the foregoing discussion, particularly the age of the victim, the nature of the allegations and the material available on record, this Court does not find it to be a fit case for grant of bail to the applicant. Accordingly, the bail application is hereby, **dismissed**.

10. However, considering that the applicant himself is a young boy aged about 19 years, the learned Trial Court is directed to make all endeavours to conclude the trial expeditiously, preferably within a period of six months from the date of receipt of a certified copy of this order.

11. It is clarified that the observations made herein are confined to the present bail application and shall not influence the learned Trial Court, which shall decide the case independently on its merits and in accordance with law.

(SANJEET PUROHIT),J

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S-A/
Anil Kumar Choudhary

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